

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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JOSEPH FRYE,

Plaintiff,

ORDER

- against -

15 Civ. 5348 (NRB)

BENJAMIN F. LAGERSTROM, a.k.a
BENJAMIN IRISH, and DIANACOLLV,
INC.,

Defendants.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

On August 21, 2020, the Second Circuit dismissed defendant Lagerstrom's appeal on the ground that a final judgment had not been entered in conformity with 28 U.S.C. § 1291. Case No. 19-4360, ECF No. 69. Specifically, while a default had been entered against defendant Dianacollv, Inc. (ECF No. 50) after this corporate defendant failed to appear by counsel, as the Court had advised the related individual defendant was necessary (ECF No. 10), no default judgment was entered. The reason that this Court declined to enter (without prejudice) a default judgment was explained in our Order of December 17, 2015. ECF No. 60. Stated simply, the reason was prudential concerns related to the entry of a default judgment against a defaulting defendant when claims against a non-defaulting defendant were unresolved. Now that the claims against defendant Lagerstrom are resolved, there is no just

reason for delay.

Accordingly, the Clerk of Court is directed to enter Judgment by default against defendant Dianacollv, Inc. on the same terms as Judgment was previously entered against defendant Lagerstrom: namely, Dianacollv, Inc. is permanently enjoined from infringing Frye's copyright in "Homeless." Dianacollv, Inc. is ordered to forthwith destroy all copies of all "Homeless" footage in his possession or control. The Court awards plaintiff \$10,000 in statutory damages for copyright infringement under 17 U.S.C. § 504(c), \$1,921.98 in damages for breach of contract, and \$21,450 in attorney's fees under 17 U.S.C. § 505 against Dianacollv, Inc.

SO ORDERED.

Dated: New York, New York
August 26, 2020

A handwritten signature in blue ink, reading "Naomi Reice Buchwald", followed by a horizontal line.

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE